

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RICHARD J. McCLINTON,

PLAINTIFF,

V.

**COGENCY GLOBAL INC,
D/B/A CAPSTONE LOGISITICS,
LLC,**

DEFENDANT.

CASE NO.: 2:20-cv-00543-AMM

**PLAINTIFF’S RESPONSE TO CAPSTONE’S NOTICE REGARDING
SUITABILITY FOR MEDIATION (DOC. 91)**

Plaintiff, Richard McClinton, (“Plaintiff” or “McClinton”) by counsel,
responds to clarify Defendant Capstone Logistics, LLC (“Capstone” or
“Defendant”), Notice Regarding Suitability for Mediation (Doc. 91) as follows:

1. McClinton has been and always will be open to negotiating a settlement to resolve the case. However, prior settlement discussions in this matter were not productive. McClinton is hesitant to commit to investing the time and finances associated with a second mediation without some showing by Capstone that it has a good faith interest in resolving this matter.

2. Mediation was ordered in this case. The parties held the mediation on July 21, 2021, which was obviously unfruitful. Since that time, Capstone has not shown interest in pursuing mediation until the Court's December 14, 2022, Order (Doc. 88). Capstone's timing of showing an interest to mediate raises a concern on the plaintiff's part that Capstone is attempting to avoid a hearing before the Court rather than make a good faith effort to resolve the case. For this reason, McClinton indicated to Capstone he would be willing to mediate if Capstone agreed to pay for the mediation (a term that is common in most settlements). Furthermore, McClinton tried to reason with the Capstone that the cost of coming to the January 4, 2023 hearing would likely be the monetary equivalent of the mediation costs. Still Capstone refused to agree to this term and reasoning. Thus, Capstone's refusal raises concerns for McClinton about its commitment to settlement discussions.

3. Additionally, Plaintiff's counsel told Defendant's counsel that the Northern District of Alabama judges have a limited number of referrals of mediations to give magistrate judges each year. Acquiring mediation via a magistrate judge would not be guaranteed, leading to the reason Plaintiff's counsel did not summarily agree to mediation with a magistrate judge.

/s/ Blake Clifton Edwards
/s/ Nicole Davis Edwards
Attorneys for Plaintiff

OF COUNSEL:

EDWARDS & EDWARDS ATTORNEYS AND MEDIATORS, PLLC

3603 Pine Lane, Suite C

Bessemer, Alabama 35022

Tel: (205) 549-1379

Fax: (205) 719 - 4033

E-mail: nicole@edwardsattys.com

blake@edwardsattys.com

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2022, I officially filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Marion F. Walker, Esq.

FISHER & PHILLIPS, LLP

2323 2ND AVENUE NORTH

Birmingham, AL 35203

Tel: (205) 327-8354

Fax: (205) 718-7607

mfwalker@fisherphillips.com

David Klass, Esq.

R. Bryan Holbrook, Esq.

FISHER & PHILLIPS, LLP

227 West Trade Secret, Suite 2020

Charlotte, NC 28202

Tel: (704) 334-4565

Fax: (704) 334-9774

dklass@fisherphillips.com

bholbrook@fisherphillips.com

I hereby certify that I have mailed via United States Postal Service the foregoing document to the following non-CM/ECF participants: None.

/s/ Blake Clifton Edwards

OF COUNSEL